

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

MAY 04 2001

IN THE MATTER OF IMPLEMENTATION  
OF LOCAL RULE 40.1 ON CASE ASSIGNMENTS  
IN THE EASTERN DISTRICT OF ARKANSAS

JAMES W. McCORMACK, CLERK  
By: V. Summer  
DEP CLERK

GENERAL ORDER NO. 39

General Order No. 39 is amended to read as follows:

(a) All actions and proceedings shall be assigned by a random selection process, except as specifically set out in section (b) of this rule.

(b) Civil cases shall be assigned directly to a particular judge only in the following circumstances:

(1) Voluntary Nonsuit. When the plaintiff takes a voluntary nonsuit in a case and subsequently refiles that same case, the clerk will assign it to the judge who handled it at the time of the entry of the nonsuit order. The refiled complaint shall contain a brief paragraph identifying, by style and case number, the former proceedings in which the voluntary nonsuit was entered and the name of the judge handling the case when the voluntary nonsuit order was entered.

(2) Bankruptcy Jury Trials. When a party to a bankruptcy case demands a jury trial, the randomly drawn district judge who determines that there is a bona fide jury issue shall be assigned the case directly.

(3) Habeas Corpus Petitions. Once a habeas corpus petition has been randomly assigned, all successive petitions emanating from the same state criminal

proceeding on which the first petition was based shall be assigned directly to the judge/magistrate who handled the first petition.

(4) Civil Cases Attacking Federal Sentence. Civil cases, filed pursuant to 28 U.S.C. § 2255, attacking a sentence imposed by a federal court shall be assigned directly to the sentencing judge in the criminal case.

(5) Related Cases. There may be rare situations in which a party believes a new civil case should be directly assigned to a particular judge because the new case is closely related to a prior closed case and the assignment thereof to a different judge would result in a significant waste of judicial time. If a plaintiff believes judicial economy requires such a direct assignment, he or she should so indicate by a separate pleading to be entitled “Notice of Related Case” to be filed contemporaneously with the complaint and served with the complaint upon the defendant(s).

The Notice of Related Case shall identify, by style and case number, the prior case and shall contain a brief statement setting out why judicial economy dictates direct assignment to a particular judge. When a plaintiff files such a pleading, the new case shall be tentatively assigned to the judge who handled the prior case. The adverse party(ies) shall have ten days after receiving the “Notice of Related Case” within which to file a brief statement opposing such “related case” assignment. After reviewing the cases and the submissions of the parties to determine whether the cases

are closely related and whether such non-random assignment is likely to result in significant savings of judicial resources, the judge assigned the new case may, in his or her sole discretion, decide either to keep the new case or to notify the clerk to assign the new case by random draw. The decision of the judge is final and not subject to review.

If a party other than the plaintiff believes a new case should be directly assigned to a judge who handled a prior closely related case, that party should file a "Notice of Related Case" with its first pleading and serve a copy thereof on all other parties. Such other parties shall have ten days after receiving such "Notice of Related Case" within which to file a brief statement opposing such "related case assignment. The clerk shall submit a copy of the complaint, the first pleading together with the Notice of Related Case and any responses thereto to the judge who presided over the prior case. After reviewing the cases and the submissions of the parties to determine whether they are closely related and whether such non-random assignment is likely to result in significant savings of judicial resources, the judge in the prior case may, in his or her sole discretion, notify the clerk to leave the random case assignment as it is, or to transfer the case to his or her docket as a related case. The decision of the judge is final and not subject to review.


(6) Civil Forfeiture. When a civil forfeiture action arises out of a previously filed criminal case, the clerk shall directly assign the civil forfeiture action to the judge who handled the criminal case.

(c) Consolidation of Civil Cases. Any party to a civil case may move for consolidation of pending cases. If such motion is granted, the consolidated cases will be assigned to the judge with the lower (lowest) case number.

(d) Criminal Cases. Criminal cases shall be assigned solely on a random election basis. In no event shall any criminal case or proceeding be directly assigned to a judge as a related case. However, any party to a criminal case may move for consolidation of pending cases. If such motion is granted, the consolidated cases will be assigned to the judge with the lower (lowest) case number.

(e) No person shall take any action designed to cause the assignment of any proceeding to a particular judge contrary to the provisions of this rule. The method of assignment shall assure the identify of the assigned judge will not be disclosed by the clerk, the clerk's staff, nor by any other person, until after filing. It shall also be designed to prevent any litigant from choosing the judge to whom an action or proceeding is to be assigned. Any attempt by any attorney to vary this intent shall constitute grounds for discipline, including disbarment. Any act by any employee of this Court done for the purpose of causing the assignment of any case or proceeding contrary to the provisions of this rule shall be considered a proper basis for immediate discharge.

It is hereby ORDERED this 4<sup>th</sup> day of May, 2001.

  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT